IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 27444 of 2007(P)

PETITIONER:

P. NANU,
PADINHARAYIL HOUSE, P.O. VADAYAM, KAKKATTIL,
KAKKATTIL, VADAKARA, KOZHIKODE.

BY ADV. SRI.P.RAVINDRA NATH

RESPONDENTS:
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1. SPECIAL SALE OFFICER,
SENIOR INSPECTOR (HIGHER GRADE), VADAKARA
CO-OPERATIVE AGRICULTURAL & RURAL DEVELOPMENT
BANK LTD.NO.F.1857, P.O. KAKKATTIL,
VADAKARA,KOZHIKODE.

2. THE SECRETARY,
VADAKARA CO-OPERATIVE AGRICULTURAL &
RURAL DEVELOPMENT BANK LTD. NO.F.1857,
P.O. KAKKATTIL, VADAKARA, KOZHIKODE.

R1 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)
R2 BY ADV. SRI.T.R.HARIKUMAR, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 27444 OF 2007 P

Dated this the 17th September, 2007

JUDGMENT

Petitioner availed a loan. The loan was the subject matter of two earlier Writ Petitions as disclosed by Exts.P2 and P5. By Ext.P5 dated 1.3.2006, this Court had directed that if the petitioner continues to pay at the rate of Rs.4,000/= on the last day of every month without committing default of two instalments, action will not be taken. If the petitioner causes any two defaults, the stay will stand automatically recalled and he will forfeit the benefit of the Judgment and the creditor Bank will be entitled to continue with the proceedings from the stage at which it was stopped. Admittedly, petitioner committed default as contemplated in Ext.P5. The respondent Bank has, therefore, decided to proceed in the matter. Therefore, the petitioner has now come to this Court alleging that it was without considering the payments made by him that coercive proceedings have been taken. It is also stated that the petitioner

has brought to the notice of the Agricultural Debt Relief Commission. Ext.P7 is the sale proclamation ordering sale to be held for an amount of Rs.75,658/=. The sale is to be held on 19.9.2007.

2. I heard Shri T.R. Harikumar, learned counsel appearing for the respondent Bank also. He would point out that the Bank is agreeable to recall the proceedings on condition that the petitioner pays 1/3rd of the amount prior to the date of sale and pays the balance amount in instalments. Learned counsel for the petitioner contends that the petitioner is a farmer and he is not in a position to pay off the amount and he is in financial difficulties.

3. Having heard the learned counsel appearing for the parties, the Writ Petition is disposed of as follows:

If the petitioner deposits Rs.15,000/= (Rupees Fifteen Thousand) before the time mentioned in Ext.P7, recovery proceedings shall be kept in abeyance and he will be permitted to pay off the amount remaining to be paid with due interest in

nine equal monthly instalments. The respondent Bank will serve a Statement on the petitioner within ten days from today showing the exact amount of instalments to be paid by the petitioner on the basis that he has to repay the balance amount due with interest in nine equal monthly instalments. The first instalment shall be paid on or before 15.10.2007 and the remaining instalments on or before the 15th of every succeeding month. If the petitioner does not remit Rs.15,000/= (Rupees Fifteen Thousand) before the time of sale and if he does not remit any of the instalments, the respondent Bank will be free to proceed against the petitioner in accordance with law.

K. M. JOSEPH, JUDGE

kbk.